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FRAMEWORK LEGAL INSTRUMENT ON BIOLOGICAL DIVERSITY: AN ANALYSIS OF POSSIBLE FINANCIAL MECHANISMS*/

Executive Summary

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I. INTRODUCTION

1. In considering the subject a number of interrelated issues arise: (i) the unprecedented present scale of genetic erosion threatens an ecosystems collapse and thus constitutes a threat to all nations; (ii) the animal and plant species in question serve a number of critical and increasingly important industrial, medicinal and other purposes; (iii) the loss of a unique, unstudied organism will involve an irreversible loss to science; and finally (iv) the conservation of biological diversity requires a level of financial resources and scientific and technical know-how that is not easily available to the habitat countries. It is in the light of these considerations that international responsibility for the conservation of biological diversity must be evaluated.

2. Genetic resources have a number of functions in production. Of particular importance are supplies of medicinal and food resources. A large variety of pharmaceutical drugs (annual sales estimated at between $8-20 billion) derive from plant and animal species. One fourth of all prescription drugs are said to contain an active ingredient derived from plants. Many drugs that are now synthesized (e.g. histamines, contraceptives, cortisone, etc.) were originally discovered in wild plants. It is estimated that 70 per cent of all plant species so far known to have anti-cancer properties are tropical plants, and the tropical forests contain literally thousands of species whose potential has not yet been tested.

3. The economic and social value of biological diversity is consistently underestimated, largely because neither public authorities nor consumers and producers are receiving the correct economic signals from the market place. The market prices of the genetic resources and functions do not reflect their real scarcity value or the ecological costs incurred by their use. These signals encourage individuals, industries and Governments to further exploit these resources.

4. Market failures reflect (i) the fact that some markets are not operating effectively and (ii) that some markets do not exist. Policy failures are reflected in the shape of taxes, concessions, subsidies, price controls and other fiscal measures. They stem from both the application of ill-considered policies with negative impacts and from deliberate support for vested interests. They also stem in large measure from the assignment of proprietary rights in national legal systems, under which terms these biological resources often remain outside the market system and hence are considered free goods.

5. In dealing with the loss of biological diversity, anticipation and prevention are likely to be more effective and less costly than corrective measures. It is important that the international community take account of the full costs of the loss of the use value, the option value and the existence value of genetic resources and reflect these costs in the transfer of the necessary funds required, as well as in the establishment of appropriate financial mechanisms for the purpose.

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II. INTERNATIONAL RESPONSE

6. It is important that the transfer of financial resources should be adequate, and the financial mechanisms established should be effective and efficient, in order to reduce the current loss of biodiversity. At the same time, it is now clear that there is a serious shortfall in funding for the maintenance of the environment.

7. It is necessary to assess the financing needs of the developing countries in three parts. First, there are the conventional needs for development assistance. Socond, there is the need for financing to undertake national sustainable development programmes effectively, or to cover what may be called the unmet conservation needs of the developing countries. Third, there are the financial requirements to meet the emerging planetary problems. No accurate or even approximate estimates of financial requirements to meet the different scenarios of abatement or containment have emerged so far. The extent of financial transfers within a Framework Legal Instrument on Biodiversity is being worked out on a technical level, which will be subject to political bargaining later.

8. The developing countries consider that any financial transfers undertaken should conform to a number of basic desiderata; notably, additionality of the funds in terms of levels, sources and uses; concessionality of assistance, in the form of grants and highly concessional loans, and especially not subject to conditions or leverage on structural adjustments etc.; a new financing mechanism, that is equitable and efficient, and focused on preventing the loss of biological diversity; incremental costs, funded by developed countries to cover all additional expenditures; etc.

III. FUND RAISING

9. Although some Governments are already investing in national conservation projects and multilateral/bilateral donor agencies are also taking up such projects and programmes, these flows are inadequate for quantitative and qualitative reasons. The quantity of available resources is unlikely to be increased in the near future through higher taxation or increased lending by multilateral financing institutions raising funds in the capital markets for the purpose. As to quality, by their very nature and long term gestation periods, programmes to deal with the loss of biological diversity must depend on high levels of concessional funding.

10. Basically, what is at issue is insurance against a possible future risk. In order to cover the risk, insurance premiums are necessary. Such insurance premiums are normally a percentage of net savings (say between 5 and 10 per cent). Since many of the habitat countries are least developed countries or countries with a net domestic savings level that is inadequate for pressing development needs, their contributions (insurance premiums) could be met by the international community. There is broad agreement among many economists that when there is a planetary threat leading to a damaging impact on the global commons, investment expenditures for conservation strategies cannot be carried out by commercial loans or with the use of conventional assistance earmarked for economic and social development purposes.

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11. The other aspect of the matter is raising the funds domestically. It is necessary to pay close attention to users' fees and other charges (e.g. fees for certain uses of biodiversity: the exploitation of germplasm for breeding programmes or the development of new drugs; harvesting in fishery, forestry or of authorized wildlife products; recreational uses in the promotion and gains from tourism; the recycling and disposal of wastes; etc.) that help to internalize the economic and environmental costs of loss of biodiversity within the operational cost of resource use. The users' fees could accordingly (i) raise considerable funds for international purposes; (ii) curb excessive use of genetic resources; and (iii) provide a more effective and efficient ecological control mechanism.

IV. FUND ADMINISTRATION AND MANAGEMENT

12. The financial mechanisms sought to manage the financial transfers could be a new Fund, or a new facility or a "window" in an existing institution (e.g. the World Bank), or co-operative arrangements, based on comparative advantage, among a number of international organizations (e.g. UNEP, World Bank, FAO, UNDP and others) or a combination of all of these. The establishment of an individual Fund under the control and supervision of the Parties needs further consideration. At the heart of the matter are two issues. First, whether an arrangement of this nature could induce a sense of global responsibility, and could thus redress the free-rider problem, since all countries will be sharing a common burden. Second, whether and to what extent contributions to such a Fund could be supplemented by financial technical resources coming from existing multilateral/bilateral sources. These issues should be considered in the context of (i) international arrangements currently under consideration for financial and technology transfers in terms of the Montreal Protocol; (ii) the contribution of existing multilateral institutions, such as FAO, IFAD, OGIAR, TFAP, IUCN, UNDP, World Bank; and (iii) the possibility that the level of contributions from different sources could fall short of the actual needs, so a "safety net" in the form of a residual Fund should be in place.

V. CONTRIBUTIONS AND DISBURSEMENTS

13. Contributions to such a Fund could be from a multiplicity of sources, for example, contributions, paid by Parties on an agreed basis; licence fees and royalties, arising from intellectual property rights vested in the Fund; funds raised by collections and receipts from events organized for the benefit of the Fund; etc.

14. There must be a clear understanding on burden sharing amongst donors: the scale of assessment could be a percentage of the GNP or related to industrial and commercial exploitation of genetic resources or trade in such resources during the past 5 years.

15. Payments from the Fund will be made for the financial and technical secretariat needed to service the Fund, and to provide certain general support functions, such as the organization of meetings of the Contracting Parties and other technical meetings, liaison with international and national research and

technical organizations, as deemed necessary, maintenance of an updated register of all designated areas for the purpose of ensuring the conservation of biological diversity, etc. More substantively, funds will be made available to meet basic conservation needs. The channelling of funds, through grants or loans on concessional terms, to the Parties or to certain organizations to enable or assist them to undertake the conservation of biological diversity could be either through Government or with their concurrence.

VI. RESIDUAL ISSUES

16. There are also certain unresolved issues relating to the administration and management of the Fund or the financial mechanisms put in place. If it is independent Fund, it will need to be administered by the Parties. The Parties may wish to elect, on the basis of equitable geographic distribution and periodic tenure, an Executive Committee to administer the Fund. Grants and loans made from the Fund, on the basis of assessments by the secretariat, will follow decisions made by the Executive Committee. In the case of financial mechanisms other than a Fund, these functions would need to be negotiated. Clearly, the countries concerned must participate in the decision-making process if the sense of global interdependence and of shared responsibility is to be realized.

17. The time frame for providing assistance would appear to depend on the rate of extinction of species reaching an equilibrium level or when the number of participating countries falls below an agreed amount. The Fund or financial mechanisms established will then be terminated and the remaining assets distributed in an equitable manner to those who had made initial contributions.

18. The activities of the Fund or funding mechanisms shall be in pursuance of a Long-Term Action Plan for the conservation of biological diversity and, in that context, shall cover a list of priority conservation projects.

VII. OPERATIONAL GUIDELINES

19. Two operational guidelines can be drawn up: first, the financial mechanisms developed must be regarded as a first approximation only. This is because a range of critical issues remain unresolved so far. Second, inadequate financial transfers and inappropriate financial mechanisms do not help to lighten the burden on the habitat countries to an extent and in a way that will ease the pressure on the unsustainable exploitation of genetic resources.

VIII. CONCLUDING REMARKS

20. An analysis of the nature, scale and timing of the transfer of resources reveals a number of pertinent considerations:

- The habitat countries are at present largely unable to obtain the economic and financial benefits that arise from the conservation and management of the earth's biological resources;

- The designation of specific land areas to conserve biological diversity often conflicts with alternative land uses in developing countries; adequate financial transfers could provide a substantial incentive to adopt what could otherwise be politically difficult decisions;

- The availability of additional, concessional funds could, when coupled with effective project design and development, help to focus attention on biological diversity needs and obtain support for further investment programmes;

- Financial resources are likely to be forthcoming at adequate levels if the early focus is on action programmes developed with the help of scientists, conservationists and government officials dealing with specific problems and regions of great concern;

- There is a need for an experimental initial or pilot approach that will bring to the fore what is actually needed to tackle the problems of conservation effectively, through a framework legal instrument.